



Determination of Employment Work Status for Purposes of State of California Employment Taxes and Personal Income Tax Withholding

Purpose

This form is to be used by businesses who would like to get a determination as to whether a worker is an employee for purposes of California Unemployment Insurance, Employment Training Tax, State Disability Insurance, and Personal Income Tax withholding.

Note

If you require any assistance in the completion of this form, contact the nearest Employment Tax Customer Service Office of the Employment Development Department (EDD), or call (916) 654-8203. Upon completion, return to:

**STATE OF CALIFORNIA
EMPLOYMENT DEVELOPMENT DEPARTMENT
AUDIT SECTION, MIC 94
P.O. BOX 826880
SACRAMENTO CA 94280-0001**

The EDD may need to contact you if additional information is required.

General Information

This form should be completed carefully and it should be completed for one individual who is representative of the class of workers whose status is in question. If a written determination is desired for any other class of workers, complete a separate DE 1870 form. A written determination for any worker will apply to other workers of the same class if facts are not different from those of the worker whose status was ruled upon.

This form is designed to cover many work activities. Some of the questions may not apply to you. You must answer questions number 1-39, or mark them "UNKNOWN" or "DOES NOT APPLY." Answer questions number 40-78 only if applicable. If additional space is needed, please attach another sheet.

**PLEASE TYPE OR PRINT ALL INFORMATION
CLEARLY**

NAME OF FIRM			
NAME OF OWNER			
ADDRESS OF FIRM	(CITY)	(STATE)	(ZIP CODE)
TELEPHONE NUMBER (AREA CODE)			
FIRM'S FEDERAL IDENTIFICATION NUMBER			
FIRM'S STATE IDENTIFICATION NUMBER			

Check the type of firm for which the work relationship is in question:

☐ Individual ☐ Partnership ☐ Corporation ☐ Other (specify): _____

If the firm is a corporation, is the worker an officer of the corporation? ☐ Yes ☐ No

1. Provide a brief description of the firm's business (i.e., Drug Store, Farmer, Construction, etc.): _____

2. Has this issue been the subject of a prior or current EDD audit and/or a benefit claim investigation or hearing? ☐ Yes ☐ No ☐ Unknown
If "Yes," please explain and provide any applicable dates: _____

3. Has any other governmental agency ruled on the status of services performed by the worker or another person performing the same or similar services? ☐ Yes ☐ No ☐ Unknown
If "Yes," please attach a copy.
4. Total number of workers in this class _____ (Attach names, addresses, phone numbers, and social security numbers. If more than 10 workers, attach the information for only 10).
5. This information is about services performed by the worker from _____ to _____.
(Date) (Date)
6. State worker's occupation and title and give a complete description of the services provided: _____

7. How did the worker learn of the job (i.e., advertisement in newspaper, word of mouth, etc.): _____

8. What were the requirements for the worker's position (i.e., previous experience, education, etc.): _____

9. Is the worker still performing services for the firm? ☐ Yes ☐ No
If "No," explain why and how the worker was terminated: _____

10. Were the services performed under a written agreement or contract? ☐ Yes ☐ No
If "Yes," please attach a copy.
11. If the agreement was not in writing, or the terms of the written agreement were not complied with in practice, describe the actual terms and conditions of the arrangement: _____

12. Was it agreed or understood that the worker would perform the services personally? ☐ Yes ☐ No
If "No," please explain: _____

13a. Does the worker have helpers? ☐ Yes ☐ No

If "Yes," answer questions 13b. through 13g.

If "No," go to question 14.

b. Were the helpers hired by: ☐ Worker ☐ The firm ☐ Unknown

c. Who could discharge the helpers: ☐ Worker ☐ The firm ☐ Unknown

d. Who paid the helpers: ☐ Worker ☐ The firm ☐ Unknown

e. If the worker paid the helpers, did the firm reimburse the worker? ☐ Yes ☐ No ☐ Unknown

f. What services do the helpers perform? _____

g. Are social security (FICA), state disability insurance (SDI), and income taxes withheld from the helpers wages? ☐ Yes ☐ No ☐ Unknown

If "Yes," who reports and pays these taxes? _____

14a. Was the worker permitted to provide services for others during the same time periods services were performed for the firm? ☐ Yes ☐ No ☐ Unknown

If "Yes," answer 14b. through 14f.

If "No" or "Unknown," go to question 15.

b. What percent of the worker's total working time was spent working for others? _____

c. What percent of the worker's total income was earned from others? _____

d. Describe services the worker performed for others? _____

e. Did the firm have first call on the worker's time and efforts? ☐ Yes ☐ No ☐ Unknown

f. Who owned or rented the premises where the services were performed? _____

15. State the kind and value of tools, equipment and facilities furnished by the firm: _____

16. State the kind and value of tools, equipment and facilities furnished by the worker? _____

17a. State any expenses connected with the services of the worker: _____

b. Who was responsible to pay the expenses? _____

c. Was the worker reimbursed by the firm for any of these expenses? ☐ Yes ☐ No

18. Did the worker perform under: ☐ His/her business name ☐ The firm's name

19. Did the worker advertise or maintain a business listing in the telephone directory, a trade journal, etc.? ☐ Yes ☐ No ☐ Unknown

20. Did the worker hold himself/herself out to the public as available to provide services of this nature? ☐ Yes ☐ No ☐ Unknown

If "Yes," please explain: _____

Or any other nature? ☐ Yes ☐ No ☐ Unknown

If "Yes," please explain: _____

21. Did the worker have an office or shop of his/her own? ☐ Yes ☐ No ☐ Unknown
If "Yes," where (i.e., was the office in the worker's home or was it rented office space?): _____

22. Was a license or certificate required to perform the services? ☐ Yes ☐ No ☐ Unknown
If "Yes," do you possess such a valid license? ☐ Yes ☐ No
By whom is the license issued (State type and number): _____
By whom is the license fee paid? _____
23. Did the firm engage the worker: ☐ Full-time ☐ Part-time ☐ Particular Job ☐ Indefinite Period?
☐ Other (Please explain): _____
24. Did the firm require the worker to perform during a scheduled time? ☐ Yes ☐ No
If "Yes," please explain: _____
25. Was the worker given training by the firm? ☐ Yes ☐ No
If "Yes," what kind and how often? _____

Who paid for the worker's training expenses? _____
26. Was the worker required to follow daily, weekly, etc., routines or schedules established by the firm?
☐ Yes ☐ No
If "Yes," give examples: _____

27. Was the worker given instructions about the way the service was to be performed? ☐ Yes ☐ No
If "Yes," explain the nature of the instructions: _____

28. Could the firm change the methods used by the worker in performing the services, or otherwise direct him/her as to how to perform the work? ☐ Yes ☐ No
Explain your answer: _____

29. Does the worker report to the firm or its representatives? ☐ Yes ☐ No
If "Yes," how often? _____
For what purpose? _____
In what manner (in person, in writing, by telephone, time record, etc.) _____
Attach copies of report forms used in reporting to the firm.
30. Was the worker required to produce a certain amount of work regularly if services were to continue?
☐ Yes ☐ No

31. Check the type of pay the individual received? ☐ Salary ☐ Commission ☐ Hourly
☐ Other, please explain: _____
32. Was the worker guaranteed a minimum pay? ☐ Yes ☐ No
33. Was the worker eligible for a pension, bonuses, paid vacations, sick pay, etc.? ☐ Yes ☐ No
 If "Yes," explain: _____
34. Did the firm carry workers' compensation insurance on the worker? ☐ Yes ☐ No
35. Could the firm discharge the worker at any time? ☐ Yes ☐ No
36. Could the worker quit at any time? ☐ Yes ☐ No
37. Would a liability be incurred if the worker quit or was discharged before the job was complete?
☐ Yes ☐ No
 If "Yes," please explain: _____
38. Please explain why you think the worker was an employee of the firm or an independent contractor:

39. How did the worker report earnings for income tax purposes?
☐ Wages ☐ Self-employment Income ☐ Unknown

ANSWER QUESTIONS 40 THROUGH 45 ONLY IF THE WORKER IS AN AGENT DRIVER OR COMMISSION DRIVER (AN AGENT-DRIVER OR COMMISSION DRIVER IS A PERSON WHO OPERATES HIS/HER OWN TRUCK OR THE TRUCK OF THE FIRM AND SERVES CUSTOMERS OF THE FIRM AS WELL AS SOLICITING HIS/HER OWN CUSTOMERS)

40. State the products and/or services the driver distributes (for example: Bakery products, laundry services): _____
41. If the driver distributes more than one product or service, which is considered the principal or main product?
 Explain: _____
42. Does the driver serve: ☐ Customer or routes designated by the firm? ☐ His/her own customers?
☐ Both?
43. Was the driver required to perform the services personally? ☐ Yes ☐ No
44. Was the driver's services part of a continuing relationship with the firm and not in the nature of a single transaction? ☐ Yes ☐ No
45. What investment, other than for transportation, does the driver have in the business?

**ANSWER QUESTIONS 46 THROUGH 58 ONLY IF THE WORKER WAS A
TRAVELING OR CITY SALESPERSON**

46. What type of product is sold? _____
47. To whom are sales made? _____
48. What typical type of business is the buyer in? _____
49. Does the buyer resell the product or use it in its business? _____
50. Did the worker have an exclusive territory? ☐ Yes ☐ No
51. Did the firm specify when and how often to work the territory? ☐ Yes ☐ No
If "Yes," please explain: _____
52. What percent of total sales that the worker made for the firm were made to wholesalers, retailers, contractors, or operators of hotels, restaurants, or other similar establishments? _____
53. What was the percent of working time that the worker spent in selling to organizations other than those specified in #52 such as manufacturers, schools, churches, homeowners, etc.? _____
54. What was the approximate number of hours worked per day for the firm? _____
55. Was the worker required to perform the services personally? ☐ Yes ☐ No
56. Was the worker required to forward the orders to the firm? ☐ Yes ☐ No
57. Were the worker's services part of a continuing relationship with the firm? ☐ Yes ☐ No
58. What investment, other than transportation, does the worker have in the business? _____

ANSWER QUESTIONS 59 THROUGH 66 ONLY IF THE INDIVIDUAL WORKED AT HOME

59. Who furnished materials or goods used by the homemaker? ☐ Individual ☐ Firm
60. Was the homemaker furnished a pattern or given instructions to follow in making the product?
☐ Yes ☐ No
If "Yes," please explain: _____
61. Was the homemaker required to return the finished product either to the firm or to someone designated by the firm? ☐ Yes ☐ No
62. Was the homemaker required to perform the services personally? ☐ Yes ☐ No
63. Is the firm licensed by the California Division of Labor Standards Enforcement?
☐ Yes ☐ No ☐ Unknown
64. Does the homemaker have a valid permit from the California Division of Labor Standards Enforcement?
☐ Yes ☐ No ☐ Unknown
65. Who bears the cost of material damaged by the homemaker? ☐ Worker ☐ Firm
66. Explain the nature of any substantial investment in facilities used in connection with performance of the workers services. _____

**ANSWER QUESTIONS 67 THROUGH 71 ONLY IF THE INDIVIDUAL IS A
REAL ESTATE SALESPERSON OR BROKER**

67. Does the firm provide advances against unearned commissions, expense accounts, or reimbursements of expenses incurred by the salesperson? ☐ Yes ☐ No

Please explain: _____

68. Does the firm approve the sales before they are placed in escrow? ☐ Yes ☐ No

69. Does the salesperson have any other duties with the firm besides selling real estate? ☐ Yes ☐ No

If "Yes," please explain the nature of such duties and the method of payment: _____

70. Does the firm allow the salesperson to have exclusive listings? ☐ Yes ☐ No

71. Does the salesperson have a valid license to sell real properties? ☐ Yes ☐ No

**ANSWER QUESTIONS 72 THROUGH 78 ONLY IF THE FIRM IS A
"TEMPORARY SERVICES EMPLOYER" OR "LEASING EMPLOYER"**

72. Does the firm negotiate with clients or customers for such matters as time, place, type of work, working conditions, quality, and price of the services? ☐ Yes ☐ No

73. Does the firm determine the assignments or reassignments of the workers, even though workers retain the right to refuse specific assignments? ☐ Yes ☐ No

74. Does the firm retain the authority to assign or reassign a worker to other clients or customers when a worker is determined unacceptable by a specific client or customer? ☐ Yes ☐ No

75. Does the firm assign or reassign the worker to perform services for a client or customer?

☐ Yes ☐ No

76. Does the firm set the rate of pay of the worker, whether or not through negotiation? ☐ Yes ☐ No

77. Does the firm pay the worker from its own account(s)? ☐ Yes ☐ No

78. Does the firm retain the right to hire and terminate workers? ☐ Yes ☐ No

I declare that all copies of contracts and all statements submitted are true, correct, and complete to the best of my knowledge and belief. If any misrepresentation has been made or facts have been omitted, I understand that the determination will not be valid and will not be binding upon the Department.

(NAME PRINTED)

(SIGNATURE)

(TITLE)

(DATE)

(PHONE NUMBER)